

Remarks

Following entry of the foregoing amendments, claims 1-20 and 23-28 are pending.

Applicants thank the examiner withdrawing the previous rejections.

Amendments

Claims 21-22 have been canceled. Claim 1 has been amended to specify that the device is for mounting in an *oven* vent. Claim 24 has been amended to specify that the one or more retaining tabs extending from the body are bent over a surface of the one or more screens along an edge of said one or more screens to secure the one or more screens within the ring. New claims 26-28 have been added. Support for the amendments can be found at page 5, lines 11-13; page 8, lines 16-21; page 6, lines 3-10; page 9, lines 3-4; and page 10, lines 25-26. No new matter has been added.

Restriction Requirement

The Office Action deemed claims 21-22 as withdrawn, being drawn to a non-elected invention. For the record, the undersigned respectfully disagrees that the election was made without traverse in a telephone conversation with the Examiner. On the contrary, the election unquestionably was made with traverse, and for the reasons set forth in Applicants' response mailed January 25, 2005. Nevertheless, claims 21-22 have been canceled without prejudice as being directed to a non-elected invention.

Rejection Under 35 U.S.C. § 102

Claim 24 was rejected under 35 U.S.C. § 102(a) as anticipated by DE 019912453 A1 to Mlotek et al. (hereinafter "Mlotek"). The rejection is respectfully traversed.

Applicants have developed an improved mounting ring for a catalyst and substrate for installation in an oven vent. The mounting ring has (1) retaining tabs serve to hold and protect the fragile catalyst/substrate, and (2) locking tabs adapted to quickly and easily secure the ring by snap-fit or slide-lock engagement within the vent of an oven. This particular mounting ring structure is not taught by, and is inventive over, the prior art.

Mlotek clearly fails to disclose each and every element and limitation of Applicants' claim 24. The Examiner alleges that Mlotek's device shown in Figure 3 or 4 possesses structural features that meet all of the limitations of claim 24. This is simply incorrect. First, and contrary to ¶ 1 of the office action, part 79 clearly is not a mounting ring; rather, it refers to a recess in tub flange 77. The flange recess is not a ring.

Even if the tub/filter can 57 were construed to be a "mounting ring," these parts clearly fail to have either retaining tabs or locking tabs as Applicants define them. In particular, the Mlotek device does not have "retaining tabs extending from the body which secure [the] screens within the ring," as required by Applicants' claim 24. As one can readily see from FIG. 3 of Mlotek, there are no "tabs" that both *extend from the ring* and *secure the catalyst*. The only parts in Mlotek that operate to secure the catalyst within filter can 57 are cover 59 and the bottom of filter can 57. Neither of these can reasonably be considered *tabs*. Nor can one reasonable consider the filter cover 59 to *extend from* the ring.

In addition, the Examiner identifies parts 81 and 83 as meeting the "locking tabs" of Applicants' claim. Those parts clearly do not, because those tabs merely serve to lock together the filter can 57 and the filter cover 59. They do not operate "to secure the device within an orifice of the oven vent" as required by the locking tabs of Applicants' claimed device.

Furthermore, part 83 and part 69 do not extend from the ring-shaped body, as required by Applicants' claimed device.

Lastly, Mlotek discloses that the mounting ring is secured to a vent opening by means of screws—not locking tabs. Specifically, Mlotek teaches that “for final assembly, the filter cover 59 is **screwed** to the ventilator base plate 47 by means of the **threaded** indentations 65 and the base plate **screw openings** 51” (middle of p. 5 of English translation) (emphasis added). Clearly, this disclosure cannot be construed as “engageable by snap-fit or slide-lock engagement with one more surfaces of the oven vent,” as Applicants' claimed device requires.

In sum, there are several important distinctions between the devices disclosed by Mlotek and the devices defined by Applicants' claims. Therefore, no *prima facie* case of anticipation has been made, and the rejection thus must be withdrawn.

Rejection Under 35 U.S.C. § 103

Claims 1-5, 8-20, and 23 were rejected under 35 U.S.C. § 103 as obvious over U.S. Patent No. 3,785,778 to Burstein (hereinafter “Burstein”) in view of U.S. Patent No. 5,285,640 to Olivo (hereinafter “Olivo”). Claim 6 was rejected as obvious over the combination of Burstein, Olivo, and U.S. Patent No. 3,536,457 to Henderson (hereinafter “Henderson”). Claim 7 was rejected as obvious over the combination of Burstein, Olivo, and applicants' prior art admission. Claim 25 was rejected as obvious over Mlotek in view of Olivo. The rejections are all respectfully traversed.

Burstein discloses that flange 63 is secured by screws to mount the catalytic unit to the wall of the oven (Col. 7, Lines 12-15). As admitted by the Examiner, Burstein fails to disclose locking tabs for snap-fit or slide-lock engagement of a mounting ring with one or more surfaces

of an oven vent to secure the catalytic converter within an orifice of the vent. The Examiner now seeks to supplement these deficiencies of Burstein with the teachings of Olivo. However, one skilled in the would not have been motivated to combine these two references, and even if combined, there is no suggestion to derive the particular structures claimed by Applicants.

Claims for an invention are not *prima facie* obvious if the primary references do not suggest all elements of the claimed invention and the prior art does not suggest the modifications that would bring the primary references into conformity with the application claims. In re Fritch, 23 U.S.P.Q.2d 1780 (Fed. Cir. 1992); In re Laskowski, 871 F.2d 115 (Fed. Cir. 1989). As detailed below, a *prima facie* case of obviousness has not been made.

There Is No Motivation to Combine Burstein and Olivo

One of ordinary skill in the art would not have been led to combine Burstein with Olivo to derive Applicants' claimed devices, absent improper hindsight reconstruction based on Applicants' disclosure, because Olivo is non-analogous art. Although examination of patent claims is necessarily conducted after the date of invention, "the combination of elements from non-analogous sources in a manner that reconstructs the Applicant's invention only with the benefit of hindsight is insufficient to present a *prima facie* case of obviousness." In re Oetiker, 977 F.2d at 1445-47, 24 U.S.P.Q.2d at 1446 (Fed. Cir. 1992). Nothing in Burstein suggests a problem to be solved that would lead one of ordinary skill in the art to search for or identify Olivo. That in hindsight of Applicants' disclosure a skilled artisan arguably may be able to recognize, cull, modify, and combine certain claim elements from disparate references is not evidence of a clear and particular motivation to combine those references. *See, e.g., In re Lee*, 61 U.S.P.Q.2d 1430, 1433-34 (Fed. Cir. 2002). Furthermore, as evidenced by the attached Rule

132 Declaration by Mr. Robert Mitchell, one skilled in the art of designing catalyst mounting devices for installation in oven vents would not consider Olivo, alone or in combination with Burstein or with Mlotek. See ¶¶ 4-5 of Declaration.

Olivo's multipurpose shroud for surrounding the outer surface of the combustion chamber to completely oxidize hydrocarbons and carbon monoxide in automobile exhaust emissions, to provide a muffler system that minimizes engine emissions noise, and to aid in reduction of NO_x has nothing to do with how to protect a fragile ceramic catalyst during its installation in an oven vent in combination with a means to quickly, easily, and securely mount the catalyst within the oven vent without mounting screws. The Court of Appeals for the Federal Circuit has recognized that in considering whether prior art is analogous to an invention, "it is necessary to consider the reality of the circumstances,...-in other words, common sense-in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor." In re Oetiker, 977 F.2d at 1447; 24 U.S.P.Q.2d at 1446. The reality is that one of ordinary skill would not reasonably be expected to look to Olivo for a solution for to problems associated with how to mount a catalyst in an oven vent. The skilled artisan would not reasonably look to a complicated device used to treat exhaust emissions from an engine, which has much different design considerations than oven vent gases. In sum, there is no evidence the skilled artisan would have been aware of or applied the teachings of Olivo to either Burstein or Mlotek in deriving the devices defined by Applicants' claims.

The Combination of Burstein and Olivo Fails to Suggest Applicants' Claimed Devices

Even if Olivo is deemed analogous art, which it is not, there is no suggestion or motivation in either Olivo or Burstein to derive Applicants' claimed devices. The Examiner

alleges that “Olivo teaches the catalyst convert (115) can be attached to device 70 by other conventional suitable means, including, but not limited to machine screws, clips, clamps, and snap-fit engagement other than welding and fastened with nut and bolt” and that that “these alternative attachment means facilitate in maintenance or serviceability of the catalyst converter (Col. 7, lines 8-10).” This is a misreading of Olivo and an erroneous comparison to Applicants’ claimed devices.

First, part 115 is not a “catalyst converter.” Rather, part 115 is “an elongated tubular body” (Col. 6, Lines 41-42 and FIG. 3). Second, reference character 70 refers to the whole of the exhaust emissions treatment device, so it is entirely unclear what precise parts the Examiner contends can be attached by the laundry list of attachment means listed at col. 7, lines 8-10.

Nevertheless, this list of attachment means clearly has nothing to do with the locking tabs of Applicants’ claimed devices. A careful reading of Olivo, FIGS. 3-5 and Column 7, shows that the attachment means listed at lines 8-10 are referring to the attachment of a body upstream end piece 115a or downstream end piece 115b to tubular body 115. Clearly, these end pieces 115a and 115b are not catalyst mounting rings, nor is the tubular body an orifice in an oven vent. Thus, the particular description relied upon by the Examiner would be totally irrelevant to suggesting the limitations defining Applicants’ claimed devices, which a mounting device having locking tabs extending from a ring shaped body that are engageable by snap-fit or slide-lock engagement with one or more surfaces of an oven vent to secure the catalytic converter within an orifice of the oven vent, as required by Applicants’ claim 1. The attached Rule 132 Declaration by Mr. Robert Mitchell supports this interpretation of Olivo which is contrary to that of the Examiner. See ¶ 6 of Declaration.

Furthermore, nothing in Olivo remotely suggests any of the particular embodiments of Applicants' claims 15-18 and 26-28. The Examiner points to nothing in the prior art that remotely could be construed as teaching these claimed structures, which Applicant has found to be preferred. For instance, nothing in Olivo or Burstein, alone or in combination, remotely suggests a mounting ring device wherein the locking tabs extend from the retaining tabs (Claims 15, 18, and 26). Nothing in Olivo or Burstein, alone or in combination, suggests an a mounting ring device wherein the mounting ring includes a first lip extending inwardly from a first edge of the body, the first lip working in conjunction with the retaining tabs folded over a portion of the first surface of the ceramic substrate at a second edge of the body to secure the ceramic substrate within the ring (Claim 16) or wherein the mounting ring includes a second lip extending outwardly from a second edge of the body and a portion of the one or more surfaces of the exhaust vent of the oven can be clipped into place between the second lip and the locking tabs to secure the catalytic converter within the orifice of the exhaust vent (Claim 17). In addition, nothing in Olivo or Burstein, alone or in combination, suggests an embodiment wherein the retaining tabs and the locking tabs are integral with the ring shaped body, e.g., where they the body, retaining tabs, and locking tabs are formed out of a single sheet of metal (Claims 27 and 28). The attached Rule 132 Declaration by Mr. Robert Mitchell further supports the non-obviousness of the embodiments of claims 15-18 and 26-28. See ¶ 7 of Declaration. These dependent claims are clearly patentable over the cited prior art.

Only in hindsight of applicants' disclosure would one of ordinary skill in the art have been led to somehow combine and extend the disclosure of Burstein and Olivo to somehow derive the presently claimed devices. Nothing in these references, alone or in combination,

would have led one of ordinary skill in the art to modify the Burstein device to derive a catalytic converter device having a mounting ring that includes both locking tabs and retaining tabs extending from a ring shaped body to secure the catalyst-coated substrate and simultaneously facilitate its rapid installation into an oven vent orifice without screws. The combination of Burstein and Olivo lack any particular suggestion or motivation to combine the technologies at all or in such a way as to result in the devices of Applicants' claims 1-20 and 23-28.

Accordingly, Olivo and Burstein fail to establish a *prima facie* case of obviousness.

There Is No Motivation to Combine Mlotek and Olivo

For the same reasons described above with reference to Burstein and Olivo, one skilled in the art would not have been motivated to combine Mlotek with Olivo. Olivo is non-analogous art. One skilled in the art would have no reason to look the engine exhaust emissions treatment device of Olivo in deriving Applicants' claimed devices for mounting a catalyst in an oven vent. One of ordinary skill in the art simply would not have been led to combine Mlotek with Olivo to derive Applicants' claimed devices, absent improper hindsight reconstruction based on Applicants' disclosure.

The Combination of Mlotek and Olivo Fails to Suggest Applicants' Claimed Devices

Even if Mlotek and Olivo are combined and considered together, they fail to provide the required motivation or teaching to derive the particular devices defined by Applicants' claims. Nothing in Mlotek and Olivo remotely suggests a device having first retaining tabs extending from the body over an edge portion of the first surface of the catalyst-coated screen or substrate; and second retaining tabs extending from the body and folded over an edge portion of the second surface of the catalyst-coated screen or other substrate, wherein the retaining tabs

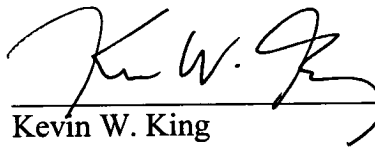
cooperate to secure the screen or substrate within the opening and to clip the device within a vent, securing the device without the use of screws, as required by claim 25.

Conclusions

For the foregoing reasons, applicants submit that a *prima facie* case of anticipation or obviousness of claims 1-20 and 23-28 has not been made. The claims are novel and nonobvious over the prior art of record, and allowance of claims 1-20 and 23-28 is therefore respectfully solicited.

The undersigned respectfully invites the Examiner to contact him by telephone (404.853.8068) if any outstanding issues can be resolved by conference or examiner's amendment.

Respectfully submitted,



Kevin W. King
Reg. No. 42,737

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SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street NE
Atlanta, Georgia 30309-3996
(404) 853-8068
(404) 853-8806 (fax)